

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
)	
Petition of the SBC Companies)	CC Docket No. 98-227
for Forbearance from Regulation as a)	
Dominant Carrier for High Capacity)	
Dedicated Transport Services in)	
Specified MSAs)	

COMMENTS OF AMERITECH

Ameritech¹ submits these comments in support of the petition of the SBC companies ("SBC") in the above-captioned matter.

Because of the substantial amount of competition in the provision of high capacity services in 14 metropolitan statistical areas ("MSAs") served by SBC, it is asking for the Commission, pursuant to §10 of the Communications Act, to forbear from regulating SBC as a dominant carrier with respect to those services in those areas. The Commission should grant SBC's request; but it is equally important for the Commission to quickly adopt a broader pricing flexibility framework applicable to the industry as a whole so that customers can realize all the benefits of the explosive growth in competition.²

¹ Ameritech means: Ameritech Illinois, Ameritech Indiana, Ameritech Michigan, Ameritech Ohio, and Ameritech Wisconsin.

² Ameritech notes that the Commission has asked parties to refresh the record in its price cap and access reform proceedings -- including asking for comment on Ameritech's and Bell Atlantic's pricing flexibility proposals -- Public Notice FCC 98-256, (released October 5, 1998).

In its Access Reform Order, the Commission first modified the access rate structure to bring it into line with cost-causation principles and to phase out significant implicit subsidies.³ In addition, the Commission endorsed the use of a “market-based approach,” as opposed to a “prescriptive” approach, as a check on local exchange carrier pricing. As the Commission noted:

We decide that adopting a primarily market-based approach to reforming access charges will better serve the public interest than attempting immediately to prescribe new rates for all interstate access services based on the long-run incremental cost or forward-looking economic cost of interstate access services. Competitive markets are superior mechanisms for protecting consumers by ensuring that goods and services are provided to consumers in the most efficient manner possible and at prices that reflect the cost of production. Accordingly, where competition develops it should be relied upon as much as possible to protect consumers and the public interest. In addition, using a market-based approach should minimize the potential that regulation will create and maintain distortions in the investment decisions of competitors as they enter local telecommunications markets.⁴

Unfortunately, the Commission left the details of its market-based approach to be resolved “in the subsequent report and order in this docket.”⁵

Since the issuance of the Access Reform Order, the Commission has had substantial input on the way in which a market-based approach can be appropriately configured. Of significance is Ameritech’s own proposal which is described in Attachment’s A and B.⁶ That proposal is comprehensive and easy to administer and provides a solid framework for permitting the market to operate in a reasonable manner that will facilitate competition on an economically rational basis. In addition, USTA has also proposed a plan substantially similar to Ameritech’s, which

³ *In the Matter of Access Charge Reform, etc.*, CC Docket No. 96-262, *et al.*, First Report and Order, FCC 97-158, (released May 16, 1997) (“Access Reform Order”) 12 FCC Rcd. 15982 at ¶35.

⁴ *Id.* at ¶263.

⁵ *Id.* at ¶270.

⁶ These attachments were originally included as Attachments M and N to Ameritech’s October 26, 1998, comments updating the record in the Commission’s access reform proceeding. See note 2, *supra*.

Ameritech also supports.⁷ The Commission should act quickly to adopt such a framework to complete the promise offered by the Access Reform Order to rely on the market to drive the benefits of competition without the distortions of unnecessary regulation.

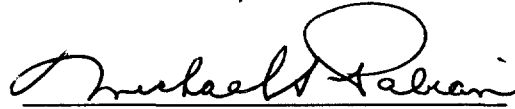
SBC's petition contains a more-than-adequate demonstration of the extent of competition for high capacity services in the 14 MSAs in question. It is very clear that, for high capacity services in those areas, SBC has ceased to be a "dominant carrier". In order to permit customers to receive the full benefits of that competition, it is necessary that SBC be permitted to compete on the same basis as other providers of high capacity services. However, as Ameritech and other carriers have shown the Commission,⁸ competition for high capacity service is not limited to the SBC's 14 MSAs. Because of that fact, until the Commission has adopted a comprehensive national pricing flexibility framework, it is likely that incumbent local exchange carriers will continue to seek relief on a case-by-case basis and the full benefits of competition will, thereby, be delayed.

⁷ See USTA's October 28, 1998, comments in CC Docket No. 96-262.

⁸ See, e.g., Ameritech's October 28, 1998, filing in CC Docket 96-262. See also the petitions of US West in CC Docket Nos. 98-227 and 99-1.

In summary, the Commission should grant SBC's petition but also move quickly to adopt a comprehensive national framework that fully implements the Commission's market-based approach to the pricing of access services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael S. Pabian". The signature is fluid and cursive, with a large loop at the end.

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Dated: January 21, 1999
[MSP0178 SBC]

CERTIFICATE OF SERVICE

I, Grace Germain, do hereby certify that a copy of the Comments of Ameritech has been served on the parties listed on the attached service list, via first class mail, postage prepaid, on this 21st day of January, 1999.

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Attachment A

Ameritech's Market Based Approach to Access Pricing Flexibility

Criteria for Evaluating Competitive Markets

Services	Phase I	Phase II	Phase III
Transport Services*	100 DS1 equivalent cross connections	Competitors have the ability to offer service to 25% of market**	Competitors have the ability to offer service to 75% of market**
Switched Access	Negotiated or State approved agreements or SGATS for: UNEs, transport and terminating compensation, resale	Competitors have the ability to offer service to 25% of market**	Competitors have the ability to offer service to 75% of market**
Price Cap X Factor	Achieve Phase I criteria for Transport and Switched Access	Achieve Phase II criteria for Transport and Switched Access	Achieve Phase II criteria for Transport and Switched Access
Interexchange (IntraLATA)	When 10-10XXX is available	When 10-10XXX is available	When IntraLATA presubscription is available
Directory Assistance*	Alternative provider offers service	Alternative provider offers service	Alternative provider offers service

*Hi Cap Transport in certain pre-defined areas can be removed from Price Cap regulation immediately. Similarly, Directory Assistance should be immediately removed from Price Cap regulation

**Measured on the basis of DS1 Equivalents (Transport) or Interstate Local Switching MOU (Switched Access) addressable by competitors via collocation in Ameritech's wire centers

Ameritech's Market Based Approach to Access Pricing Flexibility

Proposed Regulatory Relief*

Services	Phase I	Phase II	Phase III
Transport Services	(1)Geographic deaveraging under zone rate structure (2) Volume/term, contract/RFP pricing (3)New services not subject to Part 69 public interest test and cost support (4)SBI increased to 10% per year	(1)Geographic deaveraging without zone rate structure or cost support (2) Bundled services packaging, growth, LATA specific pricing, greater promotional offerings (3) simplification of price cap bands and baskets	Services removed from Price Cap regulation
Switched Access	(1)Geographic deaveraging under zone rate structure (2)Volume/term, contract/RFP pricing (3) New services not subject to Part 69 public interest test and cost support (4)SBI increased to 10% per year	(1)Geographic deaveraging without zone rate structure or cost support (2)Bundled service packaging, growth pricing (3) simplification of price cap bands and baskets	Services removed from Price Cap regulation
Price Cap X factor (weighted X factor to be calculated based on services revenues within phases of flexibility)	Elimination of CPD in X factor from 6.5% to 6.0% for those specific service revenues	Elimination of the X factor from Price Cap calculation for pre-defined LATA area service revenues	X factor no longer applies to specific service revenues
Interexchange (IntraLATA)	Same Transport and Switched Access Phase I relief above	Same Transport and Switched Access Phase II relief above	Services removed from Price Cap
Directory Assistance	Services removed from Price Cap	Services removed from Price Cap	Services removed from Price Cap

*Petition to be filed and acted upon within 90 days by the Common Carrier Bureau

Attachment B

Ameritech's Market Based Approach to Access Pricing

A Market Based Approach to Interstate Access Pricing Ameritech's Proposal

10/26/1998

Ameritech's Market Based Approach to Access Pricing

Introduction

The Telecommunications Act of 1996 (the "Act") was a major step toward creating a competitive, deregulated telecommunications market in the United States. Although, recent FCC Orders in the Local Competition Docket 96-98, the Universal Service Docket 96-45 and the Access Reform Docket 96-262 involved significant implementation efforts that moved the United States telecommunications industry toward the competitive marketplace goals of the Act, more competitively-focused changes are still needed. In particular, to enable the marketplace to operate free of regulatory distortions, reduced regulation of ILECs is needed where interstate access is subject to significant competition.

In the Access Reform Order (the Order) released on May 16, 1997, the Commission stated that:

In a subsequent order in the present docket, we will provide detailed rules for implementing the market-based approach that we adopt in today's Order. That process will give carriers progressively greater flexibility in setting rates as competition develops, gradually replacing regulation with competition as the primary means of setting prices and facilitating investment decisions.¹

More recently, the Commission released a Public Notice asking that the record be updated and seeking comments on Ameritech's and Bell Atlantic's pricing flexibility proposals. In its proposal, Ameritech urges the Commission to quickly adopt an order that addresses pricing flexibility for interstate services. There are a number of services and markets where significant competition has developed, yet the ILECs services remain constrained by regulations that were designed to restrain a monopoly.

In this paper, Ameritech explains in more detail the access reform proposal it submitted in its June 5, 1998, ex parte in Docket 96-262², that specified how the Commission could introduce and implement ILEC pricing flexibility for access services. The primary focus of this document is to explain Ameritech's proposal which, if adopted by the Commission, would transition ILEC access services out from price cap regulation commensurate with the growth of competition on the marketplace.

¹ Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (adopted May 7, 1997) at ¶14.

² Ameritech initially introduced a revised Access Reform pricing flexibility plan ex parte on April 9, 1998. In addition, ex parte other ex partes supporting the proposal were filed on June, 5, 1998, September 14, 1998 and October 14, 1998.

Ameritech's Market Based Approach to Access Pricing

Services that Face Substantial Competition Should Be Immediately Removed from Price Cap Regulation

It is important for the Commission to clearly keep in mind when regulation is necessary and when it acts as a hindrance to the growth of a healthy competitive marketplace. Regulations are necessary only when a given market for a given service is not competitive. In a non-competitive market, the provider of a service has no natural constraints on its ability to extract profits from the purchasers of its services. However, when competitive alternatives exist in the market, prices are naturally constrained. Whenever and wherever prices are set too high, another provider will offer service at a lower rate. This competitive lowering of prices will go on, in theory, until prices are set at marginal cost of the least efficient competitor capable of remaining in business.

A number of ILEC-provided access services (transport, directory assistance, etc.) are facing substantial competition today. However, regulatory constraints prohibit ILECs from responding quickly or responding at all to competitors' pricing actions. This only deprives customers the benefit of full price competition.

Using the Phase III criteria proposed in Ameritech's plan, a number of ILEC-provided services should be considered ready to be removed from price cap regulation. The Commission should acknowledge that there are currently services that are ripe for immediate relief and adopt the Ameritech proposed framework so the ILECs can expeditiously respond to market conditions and bring customers the benefits of full competition.

The following subjects should be addressed in the Commission's road map for Phase III relief.

(A) The Market

In order to determine the geographic area³ that is appropriate for full regulatory relief, the Commission will need to utilize its limited resources in an efficient manner and carefully balance the administrative problems if the area being considered for relief is too small with the reality of how competition is developing. Ameritech proposes that regulation should cease for competitive services on a self defined market area basis. Ameritech believes that the defined area should be no smaller than a LATA. Limiting the relief to areas no smaller than a LATA would decrease the administrative burden of seeking and granting relief on the ILEC and the Commission respectively. However, allowing the ILEC to self-define the market area will result in relief

³ Ameritech's June 5, 1998 pricing flexibility proposal defines the geographic area to be no smaller than a LATA. However, Ameritech can support a market area definition, such as in the USTA proposal, that allows ILECs to choose between LATA wide relief and relief for geographic areas smaller than a LATA. Also, in Ameritech's June 5 ex parte, Ameritech suggested possible modification to its proposal if there are concerns that states with only one or two LATAs might obtain pricing flexibilities prematurely.

Ameritech's Market Based Approach to Access Pricing

being granted for areas that match the development of competition. In addition, the ILEC should be allowed to file multiple market areas in a single filing.

(B) Services

Ameritech's proposed framework reflects the fact that the Commission should consider granting regulatory relief under four distinct categories of access services. These categories are Transport Services, Switched Access, Interexchange (IntraLATA) and Directory Assistance.

Transport services would include all high capacity special access and switched transport services (direct trunked and tandem), as well as all analog transport services. Any competitive provider of one of these transport services that has purchased cross connection service would already have the capability to provide all transport services therefore, there is no need to further disaggregate transport.

Switched Access includes all of the access services the ILEC offers on a per minute of use basis, as well as trunk ports, EUCL and PICC rate elements.

Interexchange and Directory Assistance should be viewed as separate categories because of the unique aspects of the services and the way in which competition is and will develop for these services.

(C) Competitive Criteria and Process

Ameritech proposes that an ILEC would file a request to remove a specific transport or switched access service from price cap regulation for a specific area. The request would detail the services and areas as well as a showing that 75% of the ILEC's demand for those services can be served by competitors through existing operational collocation arrangements. For transport access services this criteria would be met by measuring on the basis of DS1 equivalents and for switched access services by measuring interstate local minutes of use addressable by competitors via operational collocation in Ameritech's wire centers. These criteria go beyond addressability in demonstrating competition because it is unlikely that competitors would collocate without the clear intention to compete.

Phase III relief should be available for interexchange services when intraLATA presubscription is available and for directory assistance service when another provider is present in the marketplace.

All of the competitive criteria discussed above should be more than sufficient for granting Phase III relief. However, if the Commission so requests, additional information to support the request would be provided. Each request should be put out for comment on a short cycle and the request should automatically go into effect after 90 days of the filing date unless the Commission rejects it. A predefined, non-flexible approval cycle is absolutely necessary to reduce the level of uncertainty in the business planning process.

Ameritech's Market Based Approach to Access Pricing

(D) Immediate Relief Needed for Specific Services

As noted above, there are a number of services for which a pricing flexibility framework that allows for expeditious and immediate relief is needed. These services currently face substantial competition and delay in achieving regulatory relief for these services distorts the market by precluding ILECs from responding to competition. This delay, caused by regulation, harms the customer by precluding it from realizing the full benefits of a competitive market. These services are:

Transport Services - Grand Rapids, Detroit, Chicago, Milwaukee, Indianapolis, Columbus and Cleveland Areas

In the Ameritech region, competitive transport services have been available in seven areas (Chicago, Cleveland, Columbus, Detroit, Grand Rapids, Indianapolis and Milwaukee) for over three years. In the first quarter of 1998, competitive access providers (CAPs) have 44% of the market in these seven market areas. Ameritech has fully utilized the limited pricing flexibility the FCC has granted to date by offering transport services at geographically deaveraged rates and offering volume and term price plans. However, this is not enough. Competitors respond with bids that cannot be met with generally tariffed rates. These services must be removed from price cap regulation immediately because the market in these seven areas is undeniably substantially competitive. Attachments A through H of Ameritech's comments further detail the extent of competition in Ameritech's region for access services.

Directory Assistance - All LATAs

The Commission should immediately remove Directory Assistance services from price cap regulation. This relief should be granted in all areas. Directory Assistance is a fully competitive product offering in all markets. In Ameritech's region alone, Excell Agent Services, TelTrust, Rochester Telephone, GTE, and Metro One provide alternatives to Ameritech's directory assistance product line. Alternate interstate directory assistance companies have increased their share of the market from 30% to over 60% in the past two years. This story is not unique to Ameritech. Therefore the Commission must immediately remove interstate directory assistance from price cap regulation in order for the price cap LECs to respond appropriately in the competitive long distance directory assistance market.

Interstate IntraLATA Services

Relief for interstate intraLATA service should be granted by the Commission as soon as intraLATA toll dialing parity becomes effective for interstate intraLATA services. At that time, no credible argument can be made that ILECs have any monopoly position with respect to these services. Given the number of providers of service, as soon as this ability is available the market should be viewed as fully competitive and all price cap and general tariff requirements eliminated.

Ameritech's Market Based Approach to Access Pricing

Services that Don't yet Meet the Substantial Competition Criteria Should Receive Regulatory Relief Under Phase I and Phase II Dependent upon Market Conditions

Ameritech proposes that the Commission phase out regulatory constraints as the Commission proposed in its Access Reform Notice of Proposed Rulemaking (NPRM)⁴. In the NPRM, the Commission stated:

We would implement regulatory reforms as incumbent LECs demonstrate that their local markets have achieved pre-defined, specific transition points, or 'competitive criteria.'⁵

In particular, Ameritech proposes that there be two additional phases of relief for services that have not already been removed from price cap regulation. Services should be removed from price cap regulation, without regard to the phases, at any point in time that they meet the criteria for Phase III (as discussed above).

(A) The Market

The area that should be considered for a particular phase of regulatory relief should be based on an area no smaller than a LATA. The criteria as described below are most easily measured on a LATA by LATA basis, and most easily administered by the Commission, the ILEC and the IXC customer. As defined, the criteria coincide with LATA boundaries and smaller areas may be difficult to manage within the price cap regulatory model and within the billing systems of the LEC and the IXC.⁶

(B) Competitive Criteria and Process

In order to get a LATA designated as being in either Phase I or II, as described below, the ILEC should file a request for relief for each LATA and service designating which phase the ILEC believes the LATA is in. If an ILEC believes that multiple LATAs meet the Phase I or II criteria, it should file its request with information for multiple LATAs, but disaggregate all information to the LATA level. Supporting documentation should be provided as described in each section on criteria. The Commission should put each request out for comment. The request should be deemed approved after 90 days unless the Commission specifically rejects it.

[1] Phase I - Potential Competition / Transport Services -- Competitive Criteria

⁴ Access Charge Reform, CC Docket No. 96-262, Notice of Proposed Rulemaking, FCC 96-488 (adopted December 23, 1996).

⁵ *Id.* at ¶162.

⁶ As previously discussed Ameritech is not adverse to USTA's pricing flexibility proposed definition of market area.

Ameritech's Market Based Approach to Access Pricing

The criteria for Phase I relief for transport services is potential competition which is achieved when a competitor has demonstrated the capability of serving transport customers through the use of unbundled loops, cross connections to collocated facilities or use of its own facilities.

Phase I relief for transport services should be granted when an ILEC is providing the equivalent of 100 DS1 cross connections.

[2] Phase I - Potential Competition / Switched Access-- Competitive Criteria

The criteria for Phase I relief for switched access is potential competition which is achieved where a market has had the barriers to market entry removed. It is no longer necessary to fully constrain the pricing of access services, since the market can support the entrance of new competitors and the ILEC will face competition for all of its services. Significant regulatory relief should be granted at this point even though price cap regulation will continue for services for which there is not yet a demonstration of substantial competition.

For switched access services, the local market will be at the potential competition phase when the ILEC has opened its network by removing the most immediate barriers to competition. Ameritech proposes that the following three criteria, when met by the ILEC, have in fact created an environment in which new entrants can effectively compete with the ILEC. All of these criteria can be met through a negotiated or state approved interconnection agreement, through a state approved tariff or through a statement of generally available terms and conditions ("SGAT").

Unbundled Network Elements (UNEs). As the Commission recognized in the NPRM, the availability of unbundled network elements priced at TELRIC will put significant pressure on access rates. To meet this trigger all that is needed is state commission approval of either a Section 251 interconnection agreement or a statement of generally available terms and conditions. Any request by the ILEC for Phase I should include documentation of such state approval.

Transport and Termination. Transport and termination charges are based on the additional costs of transporting and terminating another carrier's traffic. The trigger is met when the state commission approves either a Section 251 interconnection agreement or a statement of generally available terms and conditions. Any request by the ILEC for Phase I should include documentation of such state approval.

Wholesale Prices for Retail Services. Wholesale prices for retail services are based on reasonable avoidable costs and approved by the state commission. The state commission may show approval either through an approved Section 251 interconnection agreement or through a statement of generally available terms and conditions. Any request by the ILEC for Phase I should include documentation of such state approval.

Ameritech's Market Based Approach to Access Pricing

[3] The Regulatory Pricing Flexibility Under Phase I

When the predefined criteria listed above are met, the following regulatory relief should be granted for ILEC access services within the LATA.

(a) Reduction of the X Factor from 6.5% to 6.0%

Ameritech proposes that, after the market has been identified as being in the potential competition phase, the price cap X-factor be reduced from its current level of 6.5% to 6.0%. By opening up the market for competition, a price cap LEC should no longer be subject to the customer productivity dividend ("CPD"). At a minimum, the potential for competition ensures that customers will capture the productivity efficiencies that were otherwise provided by the CPD. In Phase I, customers will benefit from the fact that access rates will face significant downward competitive pressure, and some services will see rate reductions that are greater than those imposed by a 6.5% productivity factor. The reason for which the customer productivity dividend was initially imposed -- lack of competition -- thus will no longer apply.

(b) Geographic Deaveraging Under a Zone Rate Structure

After the Phase I criteria are met, the relevant ILEC services should be permitted to be offered on a three-zone geographically deaveraged basis. Currently, some transport services have zoned flexibility with regards to geographically deaveraged prices but switched services are offered only on a study-area averaged basis. For most services, ILECs incur different costs when providing services in less dense rural areas and more dense urban areas. The current pricing rules distort the market by not allowing ILECs to differentiate their prices based on geographic areas, while CLECs and CAPs do not face similar constraints.

Moreover, the three geographic zone areas for switched access services should be allowed to be different from the three geographic zones for transport services since the competitive landscape and cost structures for switched services could differ from those for transport services.

(c) Contract, RFP (Request For Proposal), Volume and Term Pricing

Competitive access providers are successful in the market place because they can offer products and services at prices that meet customer needs and cost characteristics. Today, ILECs are constrained by average tariff pricing requirements. Even with geographic deaveraging, a given customer may be more likely to be "won" by the competitive provider at a non-competitive price because the ILEC is constrained by averaged tariff prices. The ILEC cannot respond based on the customer's specific cost characteristics.

When the Phase I criteria are met, customers would benefit if the ILEC has the same tools to respond to competition as its competitors. When a customer seeks bids for service, the ILEC should be able to respond with a customer-specific quote, just like the competitive provider.

Ameritech's Market Based Approach to Access Pricing

When Phase I criteria is met, constraints on volume and term pricing plans should be removed. These pricing options are just tools used in non-regulated markets to structure pricing options to meet customers needs. The Commission has recognized the need for these types of plans in granting term discounts for transport services. However, in the potential competition phase there is no longer a need to limit the use of these plans to particular services at particular times. Instead, the ILEC should be able to use these pricing tools as it sees the need, and have the ability to file and get tariffs approved on a streamlined basis.

(d) New Services

At a minimum, new services should not be subject to Part 69 public interest and cost support requirements. When the Phase I criteria are met, all technically new access services introduced by an ILEC should not be placed under price cap regulation. The new services definition used for price cap purposes should not be used for defining new services that should not be regulated. New services, for Phase I relief, are those services that have new technical interface specifications different from existing access services or which offer new features and/or functions for existing services. There is no reason that new services, which are clearly discretionary, since the ILEC is not currently offering the service, should be placed under the burden of existing regulations. In a competitive market, there will be little incentive to innovate if all new services are placed under restrictive regulations. The introduction of new services, is one way competitors respond in a competitive marketplace.

In Phase I, new services relief would not be granted for pricing plans which currently are considered new services for price cap purposes.

[4] Phase II - Actual Competition -- Competitive Criteria

When an area (e.g. LATA) has moved beyond the potential competition phase and is facing actual competition, the ILEC should be granted even greater regulatory freedom for relevant access services. This phase would occur just short of substantial competition and would still keep the regulatory constraints of price caps and tariffs in place until the market is fully competitive (all services removed from price caps requirements).

To obtain Phase II pricing flexibility, an ILEC must demonstrate that within the geographic area for which a request for relief is requested 25% of the ILEC's demand for those services can be served through existing operational collocation arrangements.

Ameritech proposes that even though they do not take into account "complete by pass arrangements" operational collocation arrangements are the single most important factor in determining whether a market is experiencing actual competition. When a competitor establishes and has an operational collocation arrangement in an office, it immediately has access to all customers served out of the office. The number of customers served by the competitor is a direct result of the competitor's own marketing efforts, not a result of any remaining barrier. Therefore, as the number of operational collocation arrangements within a market area increases, the amount of actual competition increases.

Ameritech's Market Based Approach to Access Pricing

[5] The Regulatory Pricing Flexibility Under Phase II

(a) Geographic Deaveraging Without a Zone Rate Structure

After the Phase II criteria are met, all ILEC services should be permitted to be offered on a geographically deaveraged basis without regard to a zone structure. The current pricing rules penalize ILECs by not allowing them to differentiate their prices based on geographic areas, while CLECs and CAPs do not face similar constraints.

(b) Growth Pricing

When Phase II criteria is met, constraints on growth pricing plans should be removed. These pricing options are just tools used in other markets to structure pricing options to meet customers needs. However, in the actual competition phase there is no longer a need to limit the use of these plans to particular services at particular times. Instead, the ILEC should be able to use these pricing tools as it sees the need and have the ability to file and get tariffs approved on a streamlined basis.

The Commission has expressed concerns that these tools will be used to advantage the ILEC's long distance affiliate in the long distance market. However, volume, growth and term plans can be developed that do not advantage the ILEC's affiliate. The Commission should not deny the ILEC the ability to even consider offering these types of pricing plans, but instead require that the ILEC show in its tariff support material how the plan does not unreasonably advantage the ILEC's affiliate.

(c) End of Mandatory Part 69 Rate Structure; the Ability to Package Access Services

Before a service is removed from price regulation, the competitive forces of the market will still require competitors to creatively offer service packages. When Phase II criteria are met, the ILEC should be able to offer pricing packages that are market-driven and not be restricted by the current Part 69 mandated rate structures. Instead, the ILEC ought to be able to offer packages of combined services at one rate.

(d) Streamlining the Price Cap Model

The current price cap model is structured with baskets, bands and sub-bands each of which acts to constrain pricing. As the market faces actual competition, the bands and sub-bands should be eliminated and all services should be placed in to one single basket. Having one basket would constrain overall access rate levels but would give the ILEC the ability to raise prices for some services to offset reductions in other services -- as the market dictates. This is how real market-based pricing works and should be encouraged for access services. But recognizing that competition is nascent at this phase, overall pricing would remain under a price cap.

Ameritech's Market Based Approach to Access Pricing

When an area is approved to be Phase II, the PICC and EUCL will still be constrained by their designated capped rate levels.

(e) Elimination of the X-factor

When a market is facing actual competition, the natural competitive pressures on prices will constrain the ILEC's ability to earn excessive profits. There no longer is a need to artificially reduce prices through the X-factor in the current price cap formulas. Even with the X-factor eliminated⁷, there will still remain a ceiling on prices determined more appropriately by inflation; the ILEC will not be able to indiscriminately raise prices.

Additionally, it must be remembered that the services that remain within price caps when Phase II is attained may not have met the substantial competition test because the prices may already be set at or just slightly above costs. There may be no room at current price levels for new entrants to make profits and thus competition may not be developing. But as soon as these prices were raised, significant competition may develop. If this is the case, continuing to drive rates down through the artificial X-factor may take rates below their cost levels and thus competition for these services would never develop. The current price cap methodology has no regulatory back stop to keep individual service prices from falling below cost.

Conclusion

In its Access Reform Order, the Commission adopted a market-based approach to access pricing and took significant steps to reduce the inefficiencies in the access rate structure. Now, as the Commission promised, the second step must be adopted -- the framework for permitted ILEC response to competition. Without that framework, the access market will develop based on distortions in pricing created by excessive regulation. The Commission must adopt a market-based approach to ensure a robust marketplace.

⁷ Ameritech's April 7, 1998, ex parte proposed a method of adjusting the productivity factor as services are placed in Phase I, Phase II and Phase III.